IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6499 OF 2006

Maharashtra State Road
Transport Corporation .. Petitioner

Versus

The State of Maharashtra .. Respondents

Mr.G.S.Hegde i/b. G.S.Hegde and Associates for petitioner
Mr.S.B.Deshmukh for respondent Nos.l3 and 4
Mr.Palekar, A.G.P. for respondent Nos. 1 and 2

CORAM : S.C.DHARMADHIKARI, J.
DATE : 16th June 2007.

P.C.

. Maharashtra State Road Transport

Corporation who is original plaintiff in Regular Civil Suit No.198 of 2006 has imugned in this petition, the judgement and order dated 12th September 2006 delivered by the Dist.Judge, Satara in Miscellaneous Civil Appeal No.124 of 2006 dismissing the appeal which is preferred against the order passed by Civil Judge, Senior Division, Satara below Exh.5 dated 25th July 2006 in the above suit. Petitioner- plaintiff is aggrieved by rejection of the request to restrain another local body viz., Wai Nagar Parishad, which is impleaded through its Chief Officer and President as defendant to the suit from in any manner constructing or developing a strip of land as a Road.

2. The dispute between two public bodies unfortunately lands in a civil court. There being locked in a battle of this nature, hardly sub-serves public interest. As to whether the property, which the Wai Nagar Parishad claims as

a road belongs to the Maharashtra State Road Transport Corporation exclusively pursuant to the proceedings under the Land Acquisition Act 1894 or the same is a property of State which is made over to the Wai Nagar Parishad for use of public is an issue which, according to my view, capable of being adjudicated upon by the Authorities. The authorities exercising diverse powers under various Statutes and otherwise in charge of Administration and Management of affairs at local as well as State Level are equipped enough to decide them. Grievance of the learned A.G.P. is that instead of approaching the State Government, the MSRTC has approached the Civil Court.

3. After notices were issued and parties directed to maintain status quo at site, the matter was placed before me for admission.

4. I have heard both sides at length. The matter was placed today for orders. After the

same was argued for some time, I suggested to Mr.Hegde learned Counsel appearing for petitioners and Mr.Deshmukh learned Counsel for Wai Nagar Parishad to take instructions from their respective clients, whose representatives are present in Court as to whether these public bodies would be agreeable to have the dispute between them decided by any Authority in the State Government. The names of Collector of the District and the Commissioner of Revenue Division were not acceptable to MSRTC inasmuch as they thought that they are interested in the proceedings. Therefore, I suggested to Mr.Palekar, learned A.G.P. as to whether the dispute can be resolved in Mantralaya at the level of Secretary. After taking instructions Mr.Palekar makes a statement that Secretary Public Works Department would be an appropriate authority to decide this dispute.

5. Mr.Hegde and Mr.Deshmukh after taking

instructions from the Authorised representatives of their respective clients make a joint statement that they are agreeable to have the dispute resolved by the Secretary, P.W.D., Government of Maharashtra.

6. Accordingly, Secretary, Public Works Department of Government of Maharashra shall, after hearing the MSRTC, either through its Divisional Office at Satara or otherwise so also the Wai Nagar Parishad decide the dispute as expeditiously as possible and within a period of six weeks from today. Parties to appear before Secretary, P.W.D. on 28th June 2007.

7. It would be open for the Secretary to make a spot inspection. He should make his independent assessment and pass a reasoned order. However, it would be open for him to take assistance of the Revenue Officers art site while taking spot inspection.

8. Regular Civil Suit No.198 of 2006 stands disposed of in the above terms with no costs. Order passed by this Court directing parties to maintain status quo (dated 3rd October 2006) to continue for a period of eight weeks from today. Petition disposed of accordingly.

9. Needless to state that both sides would be at liberty to place such material as is permissible in law before the Secretary to enable him to resolve the dispute.

(S.C.Dharmadhikari, J)